

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

In Re:

Juan L. Sanchez Medina,

Debtor.

Case No: **10-11268-MCF**

Chapter 13

**MOTION FOR VALUATION OF COLLATERAL OF
TOYOTA CREDIT SERVICES OF PUERTO RICO**

To the Honorable Court:

COMES NOW Debtor, by his undersigned attorney, and, pursuant to 11 U.S.C. § 506(a) and FED.R.BANKR.P. RULE 3012, moves to value the collateral herein described, of Toyota Credit Services of Puerto Rico, and very respectfully states and prays as follows:

1. The voluntary petition for the present case was filed on November 30, 2010. See Docket No. 1.
2. The Debtor owns certain personal property more particularly described as a: **2007 Toyota Yaris, VIN # JTDBT923371157117**. The odometer reading on the Vehicle, as of December 24, 2010, read **79,782 miles**. (Hereinafter referred to as the "Collateral").
3. Toyota Credit Services alleges a purchase money security interest ("PMSI") in the Collateral, for the amount of **\$16,984.29** See Claims Register, Proof of Claim No. 1.
4. The Loan and Security Agreement was entered on July 9, 2007. See Proof of Claim No. 1.
5. The National Automobile Dealers Association ("NADA")'s value for the vehicle at issue, with the designation of "Excellent" as vehicle's condition, as of the petition's filing date, shows \$9,400.00. See Attached Exhibit "A". The

Collateral at issue is not in excellent condition, so as would be necessary for to be valued at the standard dealers' suggested retail value.

6. Notwithstanding that the Collateral is not in excellent condition, to avoid any factual contention concerning the vehicle's actual value, Debtor's November 30, 2010 plan proposes to pay 100% of the Collateral's "Excellent Suggested Retail Value" of \$9,400, plus 5.25% interest, for a total amount of **\$9,893.50**, as the secured portion of Toyota's claim, and that the amount of **\$7,090.79** receive prorated distribution as a general unsecured claim.

7. The Collateral is a motor vehicle which was purchased more than 910 days prior to the petition in the present case. In order to be subject to the so-called "hanging paragraph" which follows 11 U.S.C. 1325(a)(9), the vehicle must have been purchased less than 910 days prior to the filing of the petition. Since the vehicle at issue was purchased more than 910 days before the petition's filing, Toyota's secured claim is subject to bifurcation under § 506(a) and § 1325(a).

Wherefore the Debtor respectfully requests this Honorable Court to enter an order finding that the Collateral is subject to valuation under 11 U.S.C. §§ 506(a) and 1325(a)(5); and allowing a partially secured claim in favor of Toyota Credit Services of Puerto Rico, representing the value of the Collateral of **\$9,400.00**, plus simple interest of **5.25%**, for a total amount of **\$9,893.50**, as the secured portion of Toyota's claim, and that the amount of **\$7,090.79** of Toyota's claim

receive prorata distribution as a general unsecured claim; and granting such other relief as is fair and equitable.

RESPECTFULLY SUBMITTED.

NOTICE

Within **thirty (30) days** after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, the paper will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (ii) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

A timely objection to this motion for valuation shall be heard at the confirmation hearing scheduled by the Court to be held on **February 24, 2011 at 1:30pm**, pursuant to Local Rule 3015-2(e)(3).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY: that a copy of this motion has been electronically filed with CM/ECF with the court, which will send notification of such filing to the following: José R. Carrión, Esq., Chapter 13 Trustee, and Toyota Services of Puerto Rico, and that this document was also mailed by certified mail to **Mr. Mario Davila**, General Manager of Toyota Credit Services of Puerto Rico, and **Mr. Willemien Steensma**, President of Toyota Credit Services of Puerto Rico, to **P.O. BOX 366251, San Juan,**

Puerto Rico 00936 (Mail Certificate #7009 2250 0002 1894 8085),
as listed on the attached Master Address List.

In San Juan, Puerto Rico, on January 5, 2011.

/S/ Carlos C. Alsina Batista

Carlos C. Alsina Batista

USDC-PR NO. 222801

CARLOS ALSINA BATISTA LAW OFFICES, PSC

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EXHIBIT "A"

2007 Toyota YARIS-4 Cyl.

Sedan 4D



Pricing	Rough Trade-In	Average Trade-In	Clean Trade-In	Clean Retail
Base Price	\$5,750	\$6,700	\$7,475	\$9,825
Mileage: 78,000	-\$725	-\$725	-\$725	-\$725
Power Windows	\$125	\$125	\$125	\$150
Power Door Locks	\$125	\$125	\$125	\$150

TOTAL PRICE **\$5,275** **\$6,225** **\$7,000** **\$9,400***

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Engine Specifications

Type: Gas I4

Size: 1.5L/91

Horsepower: 106 @ 6000 RPM

Torque: 103 @ 4200 RPM

Drive Train

Drive Train: Front wheel drive

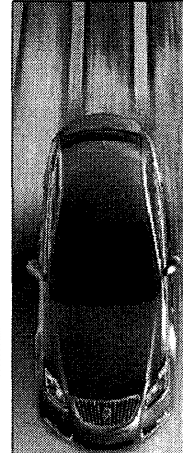
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PO BOX 866
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TOYOTA FINANCIAL SERVICES
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SAN JUAN PR 00936-8510

CITIFINANCIAL RETAIL SERVICES DE PR
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